IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.1077 OF 2005

Khandelwal Engineering Company Ltd. .....Appellant
Versus
The Municipal Corporation of Greater Bombay .....Respondent

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Shri.Vineet Naik i/b. M/s. Pandya Gandhi for the Appellant
Smt. Geetanjali Joglekar for the respondent.

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CORAM : DR.D.Y. CHANDRACHUD, J.
DATE : DECEMBER 6, 2005

P.C.

1. Learned Counsel appearing on behalf of the Appellant states that the Appellant shall remove the offending structure which has been used at present for shelter of labourers and for storing construction machinery at the construction site. Further, it has been prayed that time may be granted to the Appellant to do so, subject to the filing of an undertaking, and the Appellant shall not utilise any part of the available FSI corresponding to the extent of the area of the offending structure.

2. Accordingly, this appeal is disposed of with the following directions :

a) The Appellant shall file an undertaking before this Court within a period of one week from today to the effect that the Appellant shall demolish the structure which forms the

subject matter of the notice under section 351 of the Mumbai Municipal Corporation Act, 1881 by 31st May, 2006 and, that in the mean time, the Appellant shall not utilise any part of the available FSI to the extent of the area of the offending structure;

b) In view of the aforesaid statement, L.C. Suit No.5066 of 2005 before the Civil Court is on the request of the Appellant permitted to be withdrawn. Notice of motion No.4344 of 2005 accordingly does not survive and shall stand disposed of. The Municipal Corporation shall until the expiry of the period allowed for the Appellant to remove the structure not take any coercive steps in relation to the structure. The Corporation would be at liberty to take steps if the undertaking is not observed and/or the structure is not removed by 31st May, 2006 ;

3. Learned Counsel for the Appellant states that the aforesaid statement has been made on the instructions of Mr. Vinod Sharma of the Appellant who is competent to instruct Learned Counsel and who is present in the Court.

(DR. D.Y.CHANDRACHUD, J.)